

---

THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH

---

**ADRIANNA ALCARAZ,**

**Plaintiff,**

**v.**

**VIVIANA HELTON and MONTY  
HELTON,**

**Defendants.**

**MEMORANDUM DECISION  
AND ORDER**

**Case No. 2:23-cv-00838-JCB**

**Magistrate Judge Jared C. Bennett**

---

Under [28 U.S.C. § 636\(c\)](#) and [Fed. R. Civ. P. 73](#), pro se Plaintiff Adrianna Alcaraz (“Ms. Alcaraz”) has consented to Judge Jared C. Bennett conducting all proceedings in this case, including entry of final judgment.<sup>1</sup> Before the court is Ms. Alcaraz’s amended complaint.<sup>2</sup> For the reasons set forth below, the court dismisses this case without prejudice *sua sponte* for lack of subject-matter jurisdiction.

In her amended complaint, Ms. Alcaraz alleges that she is a citizen of Utah and that Defendants Viviana Helton and Monty Helton (collectively, “Defendants”) are also citizens of Utah.<sup>3</sup> Although Ms. Alcaraz asserts federal-question jurisdiction under [28 U.S.C. § 1331](#), she lists only state statutes as the basis for such jurisdiction.<sup>4</sup> Ms. Alcaraz’s allegations appear to

---

<sup>1</sup> ECF No. 4.

<sup>2</sup> [ECF No. 9](#).

<sup>3</sup> *Id.* at 3.

<sup>4</sup> *Id.*

relate to a landlord-tenant dispute she had with Defendants, and she seeks monetary damages from Defendants for emotional and mental distress.<sup>5</sup>

The court dismisses this case without prejudice *sua sponte* because subject-matter jurisdiction is lacking. “Insofar as subject[-]matter jurisdiction is concerned, it has long been recognized that a federal court must, *sua sponte*, satisfy itself of its power to adjudicate in every case and at every stage of the proceedings . . . .”<sup>6</sup> “A court lacking jurisdiction cannot render judgment but must dismiss the cause *at any stage* of the proceedings in which it becomes apparent that jurisdiction is lacking.”<sup>7</sup> Ms. Alcaraz bears the burden of establishing subject-matter jurisdiction.<sup>8</sup>

Ms. Alcaraz asserts federal-question jurisdiction under [28 U.S.C. § 1331](#), which provides that “[t]he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” For federal-question jurisdiction to exist, Ms. Alcaraz’s amended complaint must establish “either that federal law creates the cause of action or that [her] right to relief necessarily depends on resolution of a substantial question of federal law.”<sup>9</sup> “The complaint must identify the statutory or constitutional provision under which the

---

<sup>5</sup> *Id.* at 4-5.

<sup>6</sup> [Tafoya v. U.S. Dep’t of Just., L. Enf’t Assistance Admin.](#), 748 F.2d 1389, 1390 (10th Cir. 1984); *see also* [Fed. R. Civ. P. 12\(h\)\(3\)](#) (“If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”).

<sup>7</sup> [Tuck v. United Servs. Auto. Ass’n](#), 859 F.2d 842, 844 (10th Cir. 1988) (quotations and citation omitted) (emphasis in original).

<sup>8</sup> [Montoya v. Chao](#), 296 F.3d 952, 955 (10th Cir. 2002) (“The burden of establishing subject-matter jurisdiction is on the party asserting jurisdiction.”).

<sup>9</sup> [Firstenberg v. City of Santa Fe, N.M.](#), 696 F.3d 1018, 1023 (10th Cir. 2012) (quotations and citations omitted).

claim arises, and allege sufficient facts to show that the case is one arising under federal law.”<sup>10</sup> Further, federal-question jurisdiction “exists only where there is a colorable claim arising under federal law.”<sup>11</sup> Although “[a] claim can be meritless while still being colorable, . . . a court may dismiss for lack of subject-matter jurisdiction when the claim is so insubstantial, implausible, foreclosed by prior decisions of this Court, or otherwise completely devoid of merit as not to involve a federal controversy.”<sup>12</sup>

Ms. Alcaraz’s amended complaint fails to establish federal-question jurisdiction. Indeed, by listing only state statutes in the section of her amended complaint devoted to asserting federal-question jurisdiction, she cannot demonstrate that her claims arise under federal law. Therefore, the court lacks subject-matter jurisdiction over this case.<sup>13</sup> Accordingly, the court dismisses this case without prejudice *sua sponte*.<sup>14</sup>

### ORDER

For the reasons stated above, the court HEREBY ORDERS that this case is DISMISSED WITHOUT PREJUDICE *sua sponte* for lack of subject-matter jurisdiction.

---

<sup>10</sup> *Martinez v. U.S. Olympic Comm.*, 802 F.2d 1275, 1280 (10th Cir. 1986).

<sup>11</sup> *McKenzie v. U.S. Citizenship & Immigr. Servs., Dist. Dir.*, 761 F.3d 1149, 1156 (10th Cir. 2014) (quotations and citations omitted).

<sup>12</sup> *Id.* at 1156-57 (quotations and citations omitted).

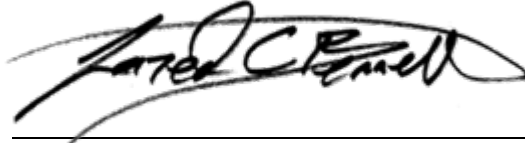
<sup>13</sup> Ms. Alcaraz did not assert diversity jurisdiction under 28 U.S.C. § 1332(a)(1), which provides that “[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between . . . citizens of different States.” But even if she had done so, it appears that she would still fail to establish the existence of subject-matter jurisdiction. Indeed, Ms. Alcaraz’s amended complaint alleges that she and Defendants are all citizens of Utah.

<sup>14</sup> *Brereton v. Bountiful City Corp.*, 434 F.3d 1213, 1216 (10th Cir. 2006) (“A longstanding line of cases from this circuit holds that where the district court dismisses an action for lack of jurisdiction, . . . the dismissal must be without prejudice.”).

IT IS SO ORDERED.

DATED this 25th day of October 2024.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Jared C. Bennett", written over a horizontal line.

JARED C. BENNETT  
United States Magistrate Judge